

U.S. DEPARTMENT OF TRANSPORTATION  
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STATEMENT OF JOHN A. VOLPE, SECRETARY OF TRANSPORTATION, BEFORE THE  
SUBCOMMITTEE ON LABOR, COMMITTEE ON LABOR AND PUBLIC WELFARE, UNITED  
STATES SENATE, REGARDING THE EMERGENCY PUBLIC INTEREST PROTECTION  
ACT OF 1971, THURSDAY, SEPTEMBER 16, 1971

I appreciate the opportunity to be here today to testify on  
S. 560, the Emergency Public Interest Protection Act of 1971.

In the weeks preceding Congress's recess last month, this country  
was experiencing a series of selective railroad strikes. While that  
dispute has been settled, the basic problem of labor relations in the  
transportation industry still remains.

As Secretary Hodgson testified before this Committee, to preserve  
the Railway Labor Act will only serve to enmesh us in further labor  
disputes in this troubled industry. Let me only remind the Committee  
that less than two weeks from today the congressionally imposed cooling-  
off period for the signalmen's strike ends. As of today, it is uncertain  
whether we must eventually return to the Congress to ask for emergency  
relief.

Let me tell you why the Administration believes we must act, and  
act now. As you know, labor relations within the railroad and airline  
industries are governed by the Railway Labor Act of 1926. Since the passage  
of the Act, 190 emergency boards have been convened to deal with transpor-  
tation crises. During just the last two years, Congress has had to act

three times following the failure of efforts under the Railway Labor Act to bring about final resolution of work disputes.

In comparison, the emergency provisions of the Taft-Hartley Act have only been needed 29 times since its enactment in 1947. Further, on only 7 of these 29 occasions did a strike actually resume after the cooling-off period.

Faced with the failure of the Railway Labor Act and the relative success of the Taft-Hartley Act, the course of this Administration was clear. No longer should the commerce of this country be allowed to grind to a halt. Therefore, last year the President proposed innovative legislation dealing with emergency disputes in the transportation industry. Our proposed measure is based on Taft-Hartley, but reaches beyond it to incorporate new techniques to enhance collective bargaining. It would place under the emergency disputes provisions of that one statute all transportation industries.

The bill covers three major areas where we have found shortcomings under the Railway Labor Act.

The first deals with bargaining and arbitration procedures. Collective bargaining agreements under the Railway Labor Act are not required to have termination dates and call for a complex series of negotiations before they can be altered. The Administration's proposal would require specific contract termination dates and written notice of desired contractual changes at least 60 days prior to that date. After expiration, the parties could resort to self help until an emergency situation imperiled the national health or safety.

Likewise, under the Railway Labor Act a National Railroad Adjustment Board arbitrates grievances. This process is so slow and inefficient that the Board's backload is currently more than 3,000 cases. The Administration seeks, therefore, to phase out the Board in favor of a private grievance and arbitration mechanism.

The second element of the legislation is built on the successful emergency procedures of the Taft-Hartley Act. Under Taft-Hartley, and under our proposed legislation, when a threatened or actual strike or lockout imperils the national health or safety, the President may appoint a board of inquiry to examine the issues and submit a report to the President. After receiving this report, the President may seek an 80-day injunction against a strike or lockout. As I mentioned, this cooling-off mechanism has been followed by a resumption of a strike only seven times.

Lastly, while Taft-Hartley has been quite successful, there have been instances when a further step was needed. We have remedied this defect with the addition of three new Presidential options at the end of the 80-day cooling-off period. One would be an additional 30-day cooling-off period. This option would undoubtedly be employed in situations where the parties have already reached an agreement in principle and only need a short time more to negotiate final details. A second Presidential option would be to appoint a partial operation panel which would designate certain essential goods and require them to be moved. Partial operation could be in effect for as long as 180 days. Finally,

the President could exercise a third option called the "final offer" option. If he chose this latter option, each party would be required to submit a final offer and an alternative final offer. These final offers would be submitted to a board which would choose the most reasonable. The final offer procedure, one of the most innovative new ideas in labor relations, is directed toward driving the parties together during collective bargaining. Faced with having a neutral panel choose in its entirety the most reasonable offer of the four presented to them, each side would be encouraged to put forward the most reasonable offer. The legislation provides for a 5-day bargaining period to follow the submission of the final offers so that the parties, realizing how close they might be, would voluntarily settle without the need for outside action.

The President, in recommending the enactment of this measure, said on February 3 of this year:

The urgency of this matter should require no new emphasis by anyone; the critical nature of it should be clear to all.

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I believe we must face up to this problem, and face up to it now, before events overtake us, and while reasoned consideration is still possible.

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The legislation I propose today would establish a framework for settling emergency transportation disputes in a reasonable and orderly fashion, fair to the parties and without the shattering impact on the public of a transportation shutdown.

I have, Mr. Chairman and Members of the Committee, been Secretary of Transportation now for almost three years. I have seen the shattering impact on the public which the President spoke of, and I have experienced the frenzied activity needed to resolve transportation strikes, even on a temporary basis. During just the last 19 months this nation has been faced on four separate occasions with the dilemma of potential nationwide railroad strikes. In the spring of 1970, Congress averted a strike by legislative action, first by postponing the strike for 37 days and then by enacting legislation that imposed a settlement. We were less fortunate the other three times.

In December of 1970 and this past May, the country experienced two short-lived strikes which, but for the speedy action of the Administration and the Congress, would have crippled the nation. This summer, as I have said, we experienced a series of selective strikes whose cumulative effect fell just short of a national emergency. It is clear that any such disruption would have a serious impact on our efforts to stabilize and improve the economy. To end the strike in May, Mr. Chairman, the Administration proposed and the Congress enacted emergency legislation. If the effect of the selective strikes earlier this summer had become more serious, or moved into a nation-wide shutdown, it is clear we would have had to come to the Congress again.

Both the Congress and the Administration recognize that permanent legislation is necessary to prevent the continual recurrence of such stopgap legislative efforts. Our proposal is meant to do just that. We

cannot continue to ask the Congress to decide these issues on an ad hoc basis. That is why we are now proposing a mechanism for resolving disputes--one which allows labor and management to bargain out their differences without economically crippling the nation. This legislation is meant to tell labor and management that they can have flexibility in their bargaining, but at the end there must be a final settlement. We are not telling them what the terms must be--we are merely saying that they must reach an agreement.

I should like to make one thing clear. This is not a pro-management bill, nor is this a pro-labor bill. It is a bill, as its title states, in the public interest. It is a bill which is meant only to protect the people of this nation from becoming the innocent victims of a labor-management dispute within a single industry.

I have been on both sides of the labor/management fence. As an owner of my construction business, I was management. I was privileged to serve for two years as Massachusetts chairman of the Labor-Management Relations Committee of the Association of General Contractors of America and for seven years as a member of the Association's National Labor-Management Relations Committee. As the Committee knows, however, I started as plasterer's apprentice, and, in fact, I still hold an honorary lifetime membership in the International Plasterers Union. As a result, I feel that I understand many of the problems of labor/management negotiations, and I am confident that this bill enhances the incentives for negotiation and the prospects for voluntary settlement.

The question has been raised as to why we have singled out the transportation industry for special legislation. There is no other industry where the effects of work stoppages have such a devastating effect on our national welfare. Simply stated, the transportation industry is the lifeline of our nation's economy. Each mode plays its important part--be it trucking, airlines, railroads, or maritime--each catering to the kind of business it can most efficiently and effectively serve. The other side of the coin, however, is that if one mode is shut down, the other modes cannot easily take up the slack. For example, the transportation of steel or automobiles cannot readily be shifted to other modes on short notice if the railroads go on strike. Likewise, there is no modal substitute for rapid coast-to-coast passenger transport by airplane. It appears that one of the prices we pay for the specialization in our transportation industry is that we are dependent upon it functioning as a whole. The shutdown of one of our transportation modes, or a substantial portion of any mode, unbalances the entire system, and has an impact upon the national health or safety. The severity of this situation calls for special remedy.

This, then, is the problem. We are faced with an industry which does not manufacture a product, but makes possible the manufacturing of almost all products. Transportation is the link which binds our many material sources to our industries; it is the link which binds our industry to the consumer. In short, it makes possible the free flow of goods and services which is the keystone of our economic system.

The public interest precludes our allowing that process to flounder, yet our commitment to the essential fairness of the collective bargaining system precludes our altering it any more than is absolutely necessary. What the Administration proposes, therefore, merely enlarges the options open to the President to facilitate and encourage fruitful collective bargaining.

Mr. Chairman, the President has reiterated his recommendation that the Emergency Public Interest Act be enacted. The Administration recognizes the need for this legislation. We cannot continue to live from crisis to crisis. We all know that hindsight is better than foresight, and we must take advantage of our hindsight to plan for the future. This is what we as a government owe to the people. We strongly urge its enactment.

Thank you very much. I will be pleased to answer any questions the Committee may have.